

**REMARKS**

Claims 1 to 24, 29 and 30, as amended, appear in this application for the Examiner's review and consideration. Claims 25 and 26 have been canceled by this Amendment without prejudice to Applicants' right to file one or more divisional or continuation applications directed to the subject matter of those claims. The amendments are fully supported by the specification and claims as originally filed. Therefore, there is no issue of new matter.

Applicants acknowledge with appreciation the indication of allowable subject matter in claims 1, 2, and 22 to 24. Applicants also acknowledge with appreciation the courtesies extended to Applicants representative, Alan P. Force (Reg. No. 39,673) by the Examiner in a telephone interview January 3, 2006. Applicants submit that the arguments set forth herein are substantially those made during that interview.

Claim 25 was rejected under 35 U.S.C. §102(b), as allegedly being anticipated by U.S. Patent No. 4,837,223 to Gobert et al. (Gobert II) for the reasons set forth on page 2 of the Final Office Action and pages 2 and 3 of the Office Action, dated October 31, 2005, and claims 7 to 21 and 26 to 28 were rejected under 35 U.S.C. §103(a), as allegedly being obvious over U.S. Patent No. 4,696,943 to Gobert et al. (Gobert I) for the reasons set forth on page 2 of the Final Office Action and pages 4 to 13 of the Office Action dated October 31, 2005.

In response, Applicants submit that claim 25 has been canceled, mooted the rejection of that claims. Therefore, it is respectfully requested that the Examiner withdraw the rejection of claim 25 under 35 U.S.C. §102(b) over Gobert II.

In addition, as discussed during the interview with the Examiner on January 3, 2006, applicants submit that claims 7 to 21 depend from allowed claim 1, claim 26 has been canceled by this Amendment, and claims 27 and 28 were canceled in the Office Action dated September 26, 2005. As claims 7 to 21 thus recite all the limitations of allowed claim 1 and any interviewing claims, those claims must also be allowable over the cited prior art.

Therefore, as claims 26 to 28 have been canceled, mooted the rejection of those claims, and as claims 7 to 21, depend from an allowed claim, the present claims are not obvious over the cited art. Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of claims 7 to 21 and 26 to 28 under 35 U.S.C. §103(a).

Claims 3, 4, 5, and 29 were objected to and/or rejected, as allegedly being substantial duplicates of the claims from which they depend for the reasons set forth on page 2 of the final Office Action.

In response, Applicants submit that claim 3 depends from independent process claim 2, claim 5 depends from independent process claim 4, and claim 29 is independent. Claims 1 and 30 are also independent process claims. Independent claims 1, 4, and 29 are directed to processes comprising reacting (S)-2-amino-butanamide hydrochloride and 4-chlorobutyryl chloride. In contrast, independent claims 2 and 30 are directed to processes comprising cyclizing (S)-N-[1-(aminocarbonyl)propyl]-4-chlorobutanamide. Applicants respectfully submit that each of the independent claims is of a different scope from that of the other independent claims, and the dependent claims recite elements not recited in the claims from which they depend. Therefore, none of the independent claims is a substantial duplicate of any of the other independent claims, and none of the dependent claims is a substantial duplicate of the claim from which it depends.

In particular, claim 1 recites:

A process for preparing (S)- $\alpha$ -ethyl-2-oxo-1-pyrrolidineacetamide (levetiracetam) comprising reacting (S)-2-amino-butanamide hydrochloride and 4-chlorobutyryl chloride in a solvent selected from the group consisting of acetonitrile and methyl *tert*-butyl ether, in the presence of a strong base and the absence of a tetrabutylammonium bromide catalyst, and recovering the crude levetiracetam;

Claim 4 recites:

A process for preparing (S)- $\alpha$ -ethyl-2-oxo-1-pyrrolidineacetamide (levetiracetam) comprising reacting (S)-2-amino-butanamide hydrochloride and 4-chlorobutyryl chloride, in an inert solvent, in the absence of a catalyst, and recovering the crude levetiracetam; and

Claim 29 recites:

A process for preparing (S)- $\alpha$ -ethyl-2-oxo-1-pyrrolidineacetamide, comprising reacting (S)-2-amino-butanamide hydrochloride and 4-chlorobutyryl chloride, in an inert solvent and in the absence of a tetrabutylammonium bromide catalyst, and recovering the crude levetiracetam.

Claim 1 differs from claim 4 in that claim 1 recites a solvent selected from the group consisting of acetonitrile and methyl *tert*-butyl ether, the presence of a strong base, and the absence of a tetrabutylammonium bromide catalyst, and claim 4 recites an inert solvent and the absence of any catalyst. Therefore, claim 1 and claim 4 differ in that claim 1 recites a strong base and claim 4 does not; claim 1 recites a solvent selected from the group consisting of acetonitrile and methyl *tert*-butyl ether, and claim 4 recites an inert solvent; and claim 1 excludes only tetrabutylammonium bromide as a catalyst, and claim 4 excludes all catalysts.

Therefore, the scope of claim 1 differs significantly from the scope of claim 4, and, thus, are clearly not substantial duplicates.

Claim 5 differs from claim 4 in that claim 5 recites the presence of a strong base, and claim 4 does not. Therefore, the scope of claim 5 is narrower than that of claim 4, and those claims are not substantial duplicates.

Claim 29 differs from claim 1 in that claim 29 recites an inert solvent, but does not recite a strong base, and claim 1 recites a strong base and a solvent selected from the group consisting of acetonitrile and methyl *tert*-butyl ether. Therefore, claims 1 and 29 differ in scope, and are not substantial duplicates.

Claim 29 differs from claim 4 in that claim 29 recites the absence of a tetrabutylammonium bromide catalyst, and claim 4 recites the absence of all catalysts. Therefore, the scope of claim 29 differs from that of claim 4, and, thus, those claims are not substantial duplicates.

Similarly, claim 2 recites tetrabutylammonium bromide, and, thus, only precludes the use of a tetrabutylammonium bromide catalyst. In contrast, claim 3 precludes the presence of any catalyst. Therefore, the scope of claim 3 is narrower than that of claim 2, and, thus, those claims are not substantial duplicates.

Claim 30 differs from claims 2 and 3 in that claim 30 recites:

A process for preparing (S)- $\alpha$ -ethyl-2-oxo-1-pyrrolidineacetamide, which comprises cyclizing (S)-N-[1-(aminocarbonyl)propyl]-4-chlorobutanamide, in an inert solvent and in the absence of a tetrabutylammonium bromide catalyst, and recovering the crude levetiracetam.

Therefore, claim 30 does not recite a strong base, and does not limit the solvent to solvents selected from the group consisting of acetonitrile and methyl *tert*-butyl ether. Therefore, claims 2, 3, and 30 are not substantial duplicates.

Therefore, claims 3, 4, 5, and 29, as well as claims 1 and 30 are not substantial duplicates. Accordingly, it is respectfully requested that the Examiner withdraw the objection/rejection of claims 3, 4, 5, and 29, as being substantial duplicates of the claims from which they depend.

Claim 30 was rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement for the reasons set forth on pages 2 and 3 of the Office Action.

In response, applicants submit that in contrast to the statement in the Office Action that claim 30 recites a crystallization process, claim 30 recites:

A process for preparing (S)- $\alpha$ -ethyl-2-oxo-1-pyrrolidineacetamide, which comprises **cyclizing** (S)-N-[1-(aminocarbonyl)propyl]-4-chlorobutanamide. . . .

Cyclizing (S)-N-[1-(aminocarbonyl)propyl]-4-chlorobutanamide is supported by original claim 2, and by the specification at page 2, line 27, to page 3, line 2.

Therefore, the subject matter of claim 30 is described in the specification in such a way as to reasonably convey to one of ordinary skill in the art that applicants had possession of the claimed invention at the time the application was filed. Accordingly, it is respectfully requested that the Examiner withdraw the rejection of claim 30 under 35 U.S.C. § 112, first paragraph.

Applicants thus submit that the entire application is now in condition for allowance, an early notice of which would be appreciated. Should the Examiner not agree with Applicants' position, a personal or telephonic interview is respectfully requested to discuss any remaining issues prior to the issuance of a further Office Action, and to expedite the allowance of the application.

A separate Petition for an Extension-of-Time is submitted herewith. Should any other fees be due, however, please charge such fees to Deposit Account No. 11-0600.

Respectfully submitted,

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